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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Special Committee decision of 20 June 2016 concerning Puerto Rico

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I. Introduction

1. At its 7th meeting, on 20 June 2016, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted draft resolution A/AC.109/2016/L.6 on the question of the decision of the Special Committee of 22 June 2015 concerning Puerto Rico. In paragraph 11 of the resolution, the Special Committee requested the Rapporteur to submit a report on the implementation of the resolution. The present report was prepared by the Rapporteur in compliance with that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur; recent political, economic, military and regional developments concerning Puerto Rico; and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 km^2, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous, and the range that runs its length reaches an elevation of 1,338 m at its highest point.

3. Over the past six decades, the island evolved from an agricultural to an urban/industrial society, with slower population growth, higher life expectancy and massive migration to the United States of America. Most of the inhabitants speak Spanish, although a number also speak English.

4. According to the Government Development Bank for Puerto Rico, the population of Puerto Rico in 2014 was estimated at 3.6 million, with a population growth rate of -0.65 and a net migration rate of -8.93 migrants/1,000 members of the population.[1] According to a 2014 Pew Research Center report,[2] Puerto Rico has lost more migrants to the United States mainland since 2010 than during the 1980s or the 1990s. The report found that the search for economic opportunity was the most commonly given explanation for the migration of island-born Puerto Ricans to the mainland from 2006 to 2013. The United States Census Bureau projects that the island's population loss will continue gradually through at least 2050, when it is expected that about 3 million people will live there. In 2010, the total population had decreased by 2.2 per cent as compared with 2000, owing to migration and a low birth rate. The fact that the majority of people leaving the island today are young professionals contributes to a brain drain. According to the data of the Economic Analysis Division of the Government Development Bank for Puerto Rico, as at December 2014, the life expectancy at birth was 79.09 years for the total population (82.8 years for women; 75.46 years for men). According to the same source, between 2000 and 2007, about 359,585 Puerto Ricans settled in the continental

[1] Government Development Bank for Puerto Rico, Economic Analysis Division, December 2014.

[2] D'Vera Cohn, Eileen Patten and Mark Hugo Lopez, "Puerto Rican population declines on island, grows on U.S. mainland", Pew Research Center, 11 August 2014.

United States, while almost 1 million had settled there between the 1950s and the 1980s. An estimated 4.6 million Puerto Ricans currently live in the United States.

5. United States citizenship is granted to people born in Puerto Rico. They do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. In addition, the Supreme Court of Puerto Rico has recognized Puerto Rican citizenship in a Court decision. Puerto Rico's Department of State issues a certification of such citizenship, which Puerto Ricans may claim through a protocol established by the Department.

6. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, with none being satisfied with the status quo. The Partido Popular Democrático (PPD) favours an enhanced commonwealth status that is non-territorial and non-colonial. Under non-territorial status, Puerto Rico would cease to be subject to the territorial clause of the United States Constitution. United States citizenship would be retained but Puerto Rico would have greater governmental authority over its own affairs and more latitude to establish regional and international relations. A sector of PPD would like to legitimize once again the present free associated State status, which was rejected by the majority of the Puerto Rican people in the first part of the 6 November 2012 plebiscite. The Partido Nuevo Progresista (PNP) favours Puerto Rico's full integration as a state of the United States. Support for PPD remains slightly higher than for PNP. The third party, the Partido Independentista Puertorriqueño, favours independence for the island. There are pro-independence groups and organizations that do not participate in the elections because they consider that, in a colonial context, elections do not represent a true democratic exercise, while some cast strategic votes in favour of the PPD candidate for Governor in order to prevent the ascension to power of statehood supporters.

B. Constitutional and political status

7. Puerto Rico currently holds commonwealth status with the United States. The 1952 Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976). In brief, the Government consists of: (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses, the Senate (27 members) and the House of Representatives (51 members), elected by direct vote of the adult population at each general election; and (c) a Supreme Court and lower courts. The jurisdiction of the United States federal courts includes Puerto Rico. Puerto Rico is represented in the United States Government by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of any committees on which he or she sits. In the general election held on 8 November 2016, Ricardo Rossello of PNP was elected Governor and Jenniffer González of PNP was elected Resident Commissioner, the first woman to hold that position. A developing trend in the context of the elections was that of independent candidates outside the traditional political parties standing for election. Such parties garnered a total of 17 per cent of votes for the governorship, between independent gubernatorial candidates Alexandra Lúgaro and Manuel Cidre, who obtained 170,000 and 88,500 votes respectively. An independent candidate who stood for election to the Senate, José Vargas, obtained the highest number of votes (150,000) of any legislative

candidate. Another developing trend is the abstention of registered voters, which, in the 8 November 2016 elections, was 45 per cent of the 1.3 million registered voters in Puerto Rico.

8. There are two judicial systems: Puerto Rico's courts and the United States District Court for the District of Puerto Rico. The latter functions in Puerto Rico with limited jurisdiction and can be reached only for cases under United States federal law or for cases where there is diversity of State citizenship, that is, when a citizen of one State sues a citizen of another State. Cases before Puerto Rico's Supreme Court involving federal law can be appealed to the United States Supreme Court. Appeals to the First Circuit are taken from the United States District Court for the District of Puerto Rico, which is a first-instance court.

9. Even after the establishment of a constitutional Government for Puerto Rico in 1952, United States congressional authority over Puerto Rico remained unaltered. The United States Congress is vested with plenary power over Puerto Rico, including in the areas of defence, international relations, external trade, monetary and other matters, while the island is vested with local authority over designated areas. All laws concerning the Territory's relations with the United States remained in force through the Federal Relations Act (see A/AC.109/L.976, paras. 120-132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958, Puerto Rico's Legislative Assembly requested changes in the Federal Relations Act, but they were not enacted. In 1959, three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them.

10. The case of *Puerto Rico v. Sanchez Valle* concerning the source of authority of the laws of Puerto Rico was brought to the Supreme Court of the United States. The matter of the United States Congress determining what cases Puerto Rican courts may prosecute was raised in an oral hearing on the case held by the United States Supreme Court on 13 January 2016. As amicus curiae at the oral hearing, Assistant to the Solicitor General, United States Department of Justice, Nicole A. Saharsky, departed from arguments previously made by the United States at the United Nations regarding the fact that Puerto Rico achieved self-government in 1952. At the hearing, United States Supreme Court Justice Stephen Breyer stated that the implication of the Supreme Court's writing an opinion on whether Puerto Rico were sovereign was enormous, and he opined on how the United States had told the United Nations that Puerto Rico was not a colony. Ms. Saharsky stated that, right then, Puerto Rico was a territory of the United States, and, as a result, it was not a separate sovereign under the double jeopardy clause. In another development reflecting the United States Congress as the source of authority over the laws of Puerto Rico, on 30 June 2016, the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) was enacted. PROMESA mandates the establishment of a Financial Oversight and Management Board in Puerto Rico. The Board, whose authority supersedes that of the laws adopted by the legislature of Puerto Rico, has been established, and, as stipulated in PROMESA, has as its mandate to ensure that Puerto Rico has a balanced budget and has access to the capital markets for four consecutive years before its mandate would cease. At the time of reporting, due to its credit rating, Puerto Rico does not have access to the municipal bonds market.

11. The results of a 1993 plebiscite, with virtually identical options to those offered in a previous plebiscite in 1967, were 48.4 per cent for the status quo (commonwealth), 46.2 per cent for statehood and 4 per cent for independence. Following this result and a request for clarification by the Legislative Assembly of Puerto Rico, Congress replied that the definition contained expectations that were not viable (see A/AC.109/1999/L.13, paras. 172-180). The Legislative Assembly then voted to hold another plebiscite in 1998.

12. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "none of the above", an option included by means of court action pursued by PPD; 46.7 per cent for statehood; 2.3 per cent for independence; 0.3 per cent for free association; and 0.06 per cent for commonwealth status. In the plebiscite, independence supporters distinguished themselves by also casting votes with the "none of the above" option, in an act of repudiation of what was considered an undemocratic exercise. Some political and civil society sectors increasingly question the validity of plebiscites by whose results the Government of the United States is not bound, and also whether the United States is actually willing to extend statehood. Many also call for a process of self-determination and decolonization in conformity with General Assembly resolution 1514 (XV) and resolutions of the Special Committee on the matter.

13. In July 2005, a vote was held whereby 84 per cent of voters opted in favour of a unicameral legislature for Puerto Rico. Although only 22 per cent of registered voters participated in that referendum, the results triggered a process whereby another referendum was to be held in 2007 to potentially amend Puerto Rico's Constitution and establish a one-house system in 2009. On 29 June 2007, however, the Supreme Court of Puerto Rico ruled that it could not force the Legislative Assembly to initiate a constitutional amendment process for establishing a unicameral legislative system.

14. After the 1998 plebiscite, the then President of the United States, William J. Clinton, established the President's Task Force on Puerto Rico's Status. The Task Force comprises designees of each member of the President's Cabinet and the Co-Chairs of the President's Inter-Agency Group on Puerto Rico. On 5 December 2003, the then President of the United States, George W. Bush, named the 16 members of his Task Force, at the same time amending Mr. Clinton's executive order so that the Task Force would be required to report on the progress made biennially instead of annually.

15. In its report of December 2005, the Task Force stated that, while the current territorial status might continue so long as Congress desired, there were only two non-territorial options recognized by the United States Constitution, namely, statehood within the United States or full independence. The Task Force concluded that Puerto Rico belonged to but was not a part of the United States. It envisaged a two-stage process for an approach to the status issue. It first recommended that a federally sanctioned plebiscite be held in 2006 to ascertain whether the people of Puerto Rico wished Puerto Rico to remain a United States territory subject to the will of Congress or whether they wished to pursue a constitutionally viable path towards permanent non-territorial status with the United States. The Task Force then recommended that, if the voters chose to change the current territorial status, an additional referendum should allow them to decide between statehood and

independence. If, on the other hand, the voters elected to maintain the current territorial status, the Task Force recommended that plebiscites be held periodically to keep Congress informed of the people's wishes.

16. It is important to note that, both before and since the issuance of the 2005 Task Force report, some have questioned whether Puerto Rico's status as a United States territory is consistent with statements that the United States made to the United Nations in 1953, following the adoption of Puerto Rico's Constitution, in requesting that Puerto Rico be removed from the list of Non-Self-Governing Territories. In its official request to the United Nations, the United States stated that Congress had given Puerto Rico the freedom to conduct its own internal government subject only to compliance with federal law and the United States Constitution.

17. Prior to the submission of the official request, the United States representative to the United Nations indicated orally that mutual consent would be needed to make changes in the relationship between Puerto Rico and the United States. That statement notwithstanding, the Department of Justice concluded in 1959 that Puerto Rico remained a Territory and was fully subject to congressional authority under the territorial clause of the United States Constitution. A broad spectrum of Puerto Rico's political and civil society sectors participating in hearings on Puerto Rico by the Special Committee maintain that the process of consultation of the Puerto Rican people regarding the status issue should take place in the context of international law, General Assembly resolution 1514 (XV) and resolutions on Puerto Rico adopted by the Special Committee since 1973.

18. In early 2007, the United States House of Representatives reopened its consideration of the political status of Puerto Rico, as two pieces of draft legislation aimed at resolving the status issue were debated in the Subcommittee on Insular Affairs of the Committee on Natural Resources. In March 2007, hearings were held on the two approaches.

19. The Puerto Rico Democracy Act was introduced on 7 February 2007. The bill stated, inter alia, that:

> The Puerto Rico State Elections Commission shall conduct a plebiscite in Puerto Rico during the 111th Congress, but not later than 31 December 2009. The ballot shall provide for voters to choose between only the following two options: (1) Puerto Rico should continue the existing form of territorial status as defined by the Constitution, basic laws, and policies of the United States; (2) Puerto Rico should pursue a path towards a constitutionally viable permanent non-territorial status.

20. A second bill, the Puerto Rico Self-determination Act, was introduced on 28 February 2007, recognizing the right of the people of Puerto Rico to call a constitutional convention through which the people would exercise their natural right to self-determination and to establish a mechanism for congressional consideration of such a decision. The constitutional assembly is a procedural mechanism for the decolonization of Puerto Rico, which has gained ground on the island in recent years. This mechanism is supported by the Puerto Rico Bar Association and is mentioned in resolutions of the Special Committee on Puerto Rico. That bill had not been voted on by the end of the 2007 and 2008 sessions of Congress.

21. In December 2007, the Task Force issued its second report on the question of the status of Puerto Rico. Again concluding that there were only two options available under the United States Constitution, the Task Force reiterated the three recommendations that it had put forward in its 2005 report.

22. It was widely reported in the press in Puerto Rico that, on 2 January 2009, the then President of the United States, Barack Obama, in a message sent to the new Governor of Puerto Rico, Luis Fortuño, reiterated that he would try to resolve the colonial case of Puerto Rico during his first term.

23. The Task Force, as constituted under the Administration of Mr. Obama, held its first meeting on 15 December 2009, expanding its focus to include matters affecting the economic development of Puerto Rico. Mr. Obama signed an executive order on 30 October 2009 that preserved the Task Force's original mission and required it to provide advice and recommendations to the President and Congress on policies that promoted job creation, education, health care, clean energy and economic development on the islands.

24. On 3 March 2010, the Task Force held hearings in San Juan. Testimony reflected a consensus that the Task Force must first address the status issue. The possibility of the constitutional assembly's serving as a mechanism for deciding the future political status of Puerto Rico was also broadly discussed during the hearings. There was objection to changes under the agenda of the Task Force, it being argued that it was contradictory to speak of economic development under the colonial model. The third report of the Task Force, issued in March 2011, included an overview of the relationship between the United States and Puerto Rico and the status issue, an executive summary covering status, economic development and recommendations in relation to Vieques, and a description of the next steps of the Task Force, which included the implementation of the recommendations, consideration of reports received from its members on the engagement of federal agencies concerning the recommendations presented in the report, and the holding of at least two summits in Puerto Rico in the following two years focusing on specific subject areas.

25. Most of the report's content on status consisted of recommendations for an accelerated decision-making process regarding the status issue whereby Puerto Ricans could express their will regarding status options, and action would be taken by the end of 2012 or soon thereafter. The Task Force recommended that under the United States Constitution the permissible status options include statehood, independence, free association and nationhood as a free associated State (commonwealth). The report included a description of each option. The Task Force specified that the United States Congress had the ultimate authority over the admission of states and that full independence involved a transition, including regarding citizenship status. The Task Force recommended that citizenship be preserved for Puerto Ricans who are United States citizens at the time of any transition to independence. The Task Force stated that under the commonwealth option, Puerto Rico would remain, as at present, subject to the territorial clause of the United States Constitution, although its local political autonomy should not be reduced or threatened. It also stated that proposals for an enhanced commonwealth status (commonwealth with greater powers) remained problematic because the mutual consent consideration was one that a future Congress could choose to alter unilaterally.

26. The Task Force further stated that it had a marginal preference for a two-plebiscite process in which the people of Puerto Rico would first vote as to their preference for becoming a part of the United States through statehood or the commonwealth, or for becoming independent through independence or free association. A second plebiscite would then be held with a choice offered among available options, as limited by the outcome of the first. If independence were chosen, a second vote would be held on full independence versus free association. Regarding Vieques, the Task Force recommended measures for accelerating its clean-up, for boosting sustainable growth, for improving the quality of health care for Vieques residents and for protecting Mosquito Bay, which is bioluminescent.

27. Reactions to the latest report of the Task Force, as covered by the press in Puerto Rico, were mixed regarding the recommendations on status, encompassing statehood supporters, proponents of the application of international law to the case of Puerto Rico and those whose opinion was that the marginal preference of the Task Force for the two-plebiscite process favoured the statehood option. The argument suggested in the last-mentioned case was that, if the choice was for Puerto Rico to continue to be a part of the United States, then in the second plebiscite, free associated State supporters would be divided, owing to the added option of free association.

28. Another reaction was that the extensive recommendations in the report regarding Puerto Rico's economy and social matters were tied to a status consultation process seen as favouring statehood, given that the recommendations regarding the economy tended towards the further incorporation of Puerto Rico into the United States through increasing the control of federal agencies in the areas of education, health, security, the justice system, communications and energy. A future vote by the people of Puerto Rico for commonwealth status would then involve a choice not for such status as it exists today, but rather for further integration into the United States, albeit not for the status of an incorporated territory. In his State of the Union address delivered in 2013, after having been inaugurated for his second term, Mr. Obama did not mention Puerto Rico, as some observers had expected he would.

29. A plebiscite, the fourth in the past 50 years, was held in Puerto Rico on 6 November 2012, on the same day as gubernatorial and municipal elections and the United States presidential elections. Almost 80 per cent of the island's electorate took part in the plebiscite.

30. Puerto Rican voters were asked: (a) whether they agreed with maintaining Puerto Rico's territorial status (commonwealth, yes or no); and (b) to indicate the political status they preferred from among three possibilities: statehood, independence or "sovereign commonwealth", a version of commonwealth status not supported by PPD. On the first question, 970,910 (54 per cent) voted "no", i.e., in opposition to maintaining the current political status, and 828,077 (46 per cent) voted "yes", i.e., in favour of maintaining the current political status. Of those who pronounced on the second question, 834,191 (61.16 per cent) chose statehood; 454,768 (33.34 per cent) chose free association; and 74,895 (5.49 per cent) chose independence. Some argue, on the basis of that result, that statehood was the clear victor and that blank votes should not be taken into account. However, 26 per cent of the voters left the second question blank, and there appears to be overall agreement that those voters were not in favour of statehood. Therefore, some

maintain that when the blank or protest votes are factored in, the absolute majority (55 per cent) is actually against statehood. On the basis of those results, it appears that Puerto Ricans rejected the current commonwealth government status but were unable to agree on an alternative.

31. Puerto Rico has viewed the plebiscite as, alternatively, an opportunity to improve the island's economic future, a chance to shake off the vestiges of its colonial past and a ploy on the part of the Governor to win a second term. In Washington, D.C., the response to the 2012 plebiscite was mixed. The interpretations of the results by some members of the United States Congress mirrored the diverse interpretations on the island. In April 2013, Mr. Obama indicated that the United States budget included $2.5 million for yet another plebiscite. In August, the United States Senate Committee on Energy and Natural Resources held a hearing on the referendum. The Chairman of the Committee, Ron Wyden (Democrat, Oregon), and Representative Lisa Murkowski (Republican, Alaska), the ranking Republican member of the panel, concurred that the vote made clear that the majority of Puerto Ricans did not favour the "current territorial status".

32. For its part, in December 2013, the White House issued a statement noting that:

> [T]he results were clear, the people of Puerto Rico want the issue of status resolved, and a majority chose statehood in the second question. Now is the time for Congress to act and the administration will work with them on that effort so that the people of Puerto Rico can determine their own future.

33. In 2014, the Puerto Rico Status Resolution Act was introduced before the United States Senate and, on 12 February 2014, referred to the Committee on Energy and Natural Resources. The bill would have authorized the State Elections Commission of Puerto Rico to provide for a ratification vote on the admission of Puerto Rico as a state of the United States on an equal footing with the other states in all respects. The bill was not enacted. In 2013, a bill setting forth the process for Puerto Rico's being admitted as a state of the Union had been introduced before the United States House of Representatives, but was also not enacted.

34. On 4 February 2015, Puerto Rico's Resident Commissioner in Washington, D.C., introduced, before the United States House of Representatives, a bill (the Puerto Rico Statehood Admission Process Act) setting forth the process for Puerto Rico's admission as a state of the Union. The bill was assigned to the Committee on Natural Resources, which has jurisdiction over Puerto Rico-related issues. On 16 March 2015, the bill was referred to the Subcommittee on Indians, Insular and Alaska Native Affairs. The bill was not enacted.

35. Under the Administration of Mr. Obama, the budget for fiscal year 2015 sought $2.5 million for objective, non-partisan voter education regarding, and a plebiscite on, options that would resolve Puerto Rico's future political status, which should be provided to the State Elections Commission of Puerto Rico. Regarding that possible plebiscite, the Governor of Puerto Rico appointed a commission composed of former presidents of PPD whose task it was to define the options to be presented to the Puerto Rican people in the plebiscite. The members of that commission have not presented a report because they have been unable to reach an agreement, owing to the fact that a sector of PPD would like to legitimize once again the present free associated State status.

36. On the basis of a paper presented by an expert, Wilma Reverón Collazo, the limitations of the projected plebiscite from the perspective of international decolonization law were broadly discussed in the Caribbean regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, held in Quito in May 2013.

37. In March 2014, the United States Government Accountability Office released a report entitled "Puerto Rico: information on how statehood would potentially affect selected federal programs and revenue sources".

III. Recent developments

A. Political developments

38. As described in previous reports, apart from general political questions, three specific issues have been raised at the meetings of the Special Committee in recent years stemming from the political status of Puerto Rico and its relationship with the United States: (a) the United States military presence in Puerto Rico, in particular on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges. In recent years, the issue of increased political persecution has been raised.

39. Throughout the incumbency of the Government of Puerto Rico elected in 2008, the major newspapers on the island reported on its intolerance towards minority views and violations of civil rights. Since 2010, they have reported on police abuse and on the compulsory nature of membership in the Puerto Rican Bar Association, a civil rights organization founded more than 140 years ago. In September 2011, the United States Department of Justice issued a report[3] in which concern was expressed regarding the excessive use of force by the Puerto Rico police force, for example, against students who were striking. The report concluded that the police had violated the civil rights of broad sectors of the population. It also indicated the existence of police corruption. According to a report of the United States Attorney General, Puerto Rico led all United States districts in the number of public corruption convictions (130) in 2011. In April 2013, it was revealed that the Administration of Mr. Obama had allocated $95 million for the establishment of a Federal Bureau of Investigation facility in Puerto Rico.

40. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession and imprisoned in the United States, including Oscar López Rivera, who as at May 2016 will have been imprisoned for 36 years, has been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these were essentially political prisoners who received disproportionately long sentences. In August 1999, Mr. Clinton offered to release the prisoners conditionally, if they formally renounced violence. The offer was accepted by 11 of the original 15 prisoners, while one accepted a deal whereby he would be set free in five years. In 2002, another 2 of the original 15 prisoners were released, although 1, Antonio Camacho Negrón, was rearrested in August 2006 by the

[3] Available from: www.justice.gov/crt/about/spl/pr.php.

Federal Bureau of Investigation. Of the two remaining prisoners, Carlos Alberto Torres was paroled in July 2010. Mr. López Rivera (now 74 years old) was denied parole on 18 February 2011 and remains in a maximum security federal prison in Terre Haute, Indiana. His appeal against that decision was rejected. The campaign for the release of Mr. López Rivera continued until his sentence was commuted on 17 January 2017 by order of outgoing President of the United States, Mr. Obama. The order includes a 120-day waiting period until his release, which is expected to be on 17 May 2017, at which point he will have served two days less than 36 years of his total 70-year sentence. Mr. López Rivera is said to be among the longest-held political prisoners in the history of Puerto Rico — and in the world. In the final phase of the campaign, several Nobel Peace Prize laureates and former Heads of State, including former President of the United States, Jimmy Carter, and Pope Francis, expressed their support for his release. Offering additional support were a broad spectrum of organizations and elected officials in the United States and Puerto Rico, where a 17-day hunger strike took place until the day the order was issued by Mr. Obama. The Movement of Non-Aligned Countries and the Special Committee had also expressed their support for his release without further delay.

41. The National Boricua Human Rights Network had submitted a petition for executive clemency to Mr. Obama, urging him to exercise his constitutional power of pardon to commute Mr. López Rivera's sentence from 70 years to time served and release him. In June 2013, the daughter of Mr. López Rivera spoke before the Special Committee for the first time.

42. Avelino González Claudio, who was arrested in March 2008, was released on 6 December 2012. His brother, Norberto González Claudio, arrested on 10 May 2011, was sentenced to five years in a United States prison. He was recently released after serving his sentence.

43. According to reports in the Puerto Rican media and as reflected in recent resolutions of the Special Committee concerning Puerto Rico, there is a strong consensus among Puerto Ricans in favour of the release of those imprisoned in cases related to the struggle for independence, in particular Mr. López Rivera. Such calls have come from persons ranging from the Governor of Puerto Rico and the Resident Commissioner in Washington, D.C., to figures in the arts and the Puerto Rican entertainment domain, and from local communities. Support at the international level includes the Movement of Non-Aligned Countries. In late 2007, the Senate of Puerto Rico adopted a resolution in favour of the release of the prisoners.

44. On 5 November 2014, the thirteenth General Assembly of the Parliamentary Confederation of the Americas and the twelfth annual meeting of the Network of Women Parliamentarians of the Americas, held in Asunción, adopted a resolution asking the President of the United States to show mercy and release the Puerto Rican political prisoner, Mr. López Rivera. The resolution was presented by two Puerto Rican senators of PPD. The United States organization, American Civil Liberties Union, recently expressed its support for the release of Mr. López Rivera from prison.

45. Lolita Lebrón, who was incarcerated in United States prisons from 1954 to 1979 for pro-independence actions, died on 1 August 2011.

46. The issue of the application of the death penalty to Puerto Ricans convicted of crimes despite the abolition of the death penalty in Puerto Rico in 1929, which was upheld in the 1952 Constitution, has been described in previous reports. At the 6th and 7th meetings of the Special Committee, on 20 June 2016, several petitioners from Puerto Rico voiced their opposition to the death penalty, including the representative of the Puerto Rican Coalition against the Death Penalty.

47. On 16 March 2015, organizations from Puerto Rico made statements regarding the status of human rights in Puerto Rico during an audience before the seven commissioners of the Inter-American Commission on Human Rights, which was held at the beginning of its 154th period of sessions. They discussed discrimination in Puerto Rico, including against women, children with disabilities and immigrants, and efforts by the United States Government to impose the death penalty in Puerto Rico in violation of the Constitution of Puerto Rico. The representative of the United States in the Organization of American States requested that the Government of Puerto Rico be represented by its Secretary of State, César Miranda. In his intervention, the Secretary of Justice called for the release of the political prisoner, Mr. López Rivera, while the Secretary of State stated that Puerto Rico should be included in the reports of the Commission.

B. Military developments

48. The tenth anniversary of the cessation of military operations of the live-missile and bombing range operated by the United States was marked in 2013. As previously reported, for many years Puerto Rico held an important military-strategic position within the United States Naval Forces Southern Command. In addition to its other military operations in Puerto Rico, from 1941 to May 2003, the United States Navy operated on Vieques, an island of just under 10,000 inhabitants located eight miles off the east coast of Puerto Rico. Vieques was used for naval gunfire support, air-to-ground ordnance training and amphibious assault exercises. Details of the military exercises conducted on Vieques during the period when the Navy occupied part of the island and of the related civil disobedience campaigns, arrests and lawsuits may be found in previous reports of the Rapporteur of the Special Committee. Following the cessation of the military operations, the Department of the Navy retained responsibility for the environmental clean-up of the property, which is now a national wildlife refuge. According to recent reports in the press, the United States has so far removed more than 16.5 million pounds of munitions in an environmental clean-up expected to last through at least 2025.[4] The Puerto Rico College of Physicians and Surgeons considered it alarming, however, that in the past 10 years, the clean-up had achieved the removal of only 5 per cent of the contaminants.[5]

49. The people of Vieques continue to struggle for the resolution of related issues: (a) environmental clean-up and decontamination; (b) the return of lands used by the United States Navy, now under the jurisdiction of the Department of the Interior Fish and Wildlife Service, to Puerto Rican peoples; (c) sustainable development and the health crisis; and (d) the future of the United States Roosevelt Roads Naval Station on the main island of Puerto Rico.

[4] *Fox News Latino*, 22 March 2013.

[5] Agencia EFE, San Juan, 26 October 2013.

50. Vieques has been sectioned off for the purpose of the clean-up activities, with a portion of the eastern part of the island transferred to the Fish and Wildlife Service of the United States Department of the Interior, to be added to the existing Vieques National Wildlife Refuge. The United States Navy managed approximately 14,600 acres in the eastern portion of Vieques, which were used for amphibious training exercises and air-to-ground manoeuvres. Unexploded ordnance and remnants of exploded ordnance, which contain hazardous substances, have been identified in that area and in the surrounding waters. The United States Environmental Protection Agency has also indicated that the hazardous substances associated with ordnance that might be present in Vieques include TNT, napalm, depleted uranium, mercury, lead and other chemicals.

51. In the western portion of Vieques, the Navy operated an ammunition facility until 1948. The facility was reactivated in 1962 and closed in 2001. Later that year, the Navy transferred 3,100 acres to the Department of the Interior, 4,000 acres to the Municipality of Vieques and 800 acres to the Puerto Rico Conservation Trust.

52. In February 2005, the Vieques portion of the proposed Atlantic Fleet Weapons Training Area site was placed on the Environmental Protection Agency National Priorities List of the most hazardous waste sites in the country.

53. In March 2008, a federal inter-agency agreement was announced between the Environmental Protection Agency, the Department of the Navy, the Department of the Interior and the Commonwealth of Puerto Rico for the clean-up of portions of Vieques and its surrounding waters. The agreement requires that the environmental impacts associated with past and present activities on Vieques and its surrounding waters be thoroughly investigated and that appropriate action be taken in order to protect the community and the environment.

54. Culebra island, located about nine miles north of Vieques, was also part of the United States Navy training facilities. Although military activities ceased on Culebra in 1975 in response to public safety concerns, clean-up of the island has been slow, owing in part to legal issues regarding the use of federal funds.

55. Some 7,000 Vieques residents collectively sought compensation for health and property damage in the billions of dollars in a lawsuit, *Sánchez et al v. United States*, in which they claimed that the United States Navy had been guilty of negligence by exposing the 10,000-strong population of Vieques to dangerous levels of toxins for more than 50 years, leading to a cancer rate in Vieques that was 30 times higher than that for the rest of Puerto Rico and to other long-term effects. The plaintiffs' lawsuit failed.

56. On 8 December 2011, in a 361-page report released for public comment,[6] the United States Agency for Toxic Substances and Disease Registry, while accepting local claims that there was a higher incidence of cancer and other health problems on Vieques relative to the rest of Puerto Rico, stated that no proof existed that the problem was linked to United States military activity. The long-awaited report was widely criticized by Puerto Rican officials and Vieques residents long resentful of the infliction of health problems that they attributed to the United States Navy. The

[6] Available from www.atsdr.cdc.gov/sites/vieques/index.html.

Resident Commissioner of Puerto Rico and United States Congressman Steve Rothman also opposed the report (A/AC.109/2012/L.13).

57. In another report, the Agency, referring to the scientific data presented on health problems on Vieques, said that the limitations associated with those analyses introduced considerable uncertainty and made interpretation difficult. It maintained that elevated levels of some chemicals found in people's bodies could be attributed to causes other than military activity and suggested that United States officials could work with the Government of Puerto Rico in obtaining additional samples and keeping track of health conditions on Vieques.

58. According to the office of Puerto Rico's Resident Commissioner, a bipartisan group of 17 members of the United States Congress addressed a letter in March 2014 to the United States Secretary of Defense urging the Department of Defense to fulfil its responsibilities regarding the clean-up of the islands of Vieques and Culebra. The letter included three specific requests. First, the letter pointed out that one decade after the military had stopped conducting training exercises on Vieques and nearly 40 years after the military had stopped conducting training exercises on Culebra, there were still meaningful gaps in information about the types and amounts of munitions used on both islands, as well as unanswered questions about potential links between those past exercises and current public-health conditions; in that regard, the letter noted that citizens of Puerto Rico and, in particular, residents of Vieques and Culebra had a compelling interest in knowing, with a reasonable degree of precision, which types of weapons were used, where they were used and in what volume they were used in both islands; the letter further noted that the congressional report accompanying the National Defense Authorization Act for Fiscal Year 2014 encouraged the Department to make public all of its historical documents relating to its activities on Vieques and Culebra. Second, the letter urged the Department to implement what was suggested by the congressional language through allocation of the full amount of funding necessary to complete the clean-up of Vieques as soon as possible. Third, the letter reminded the Department of Defense that there was a serious public safety threat in Culebra which required prompt resolution.

59. On 10 December 2014, Puerto Rico's Resident Commissioner announced that, as part of a comprehensive bill to fund the federal Government for the remainder of fiscal year 2015, the United States Congress had appropriated $17 million for the clean-up of Vieques and $1.4 million for the clean-up of Culebra. The report accompanying the bill also directed the Department of Defense to take a number of steps to improve the clean-up of the two islands.

C. Economic developments

60. According to the Government Development Bank for Puerto Rico,[7] the dominant sectors of Puerto Rico's economy in terms of production and income are manufacturing and services. Almost 90 per cent of manufacturing is generated by chemical and electronic products. The service sector plays a major role in the economy. It ranks second to manufacturing in contribution to gross domestic

[7] Government Development Bank for Puerto Rico, "Commonwealth of Puerto Rico: Financial Information and Operating Data Report", 6 November 2015.

product (GDP) and leads all sectors in providing employment. The economy of Puerto Rico is closely linked to that of the United States. During fiscal year 2014, about 71.8 per cent of Puerto Rico's exports went to the United States mainland, which was also the source of approximately 47.2 per cent of Puerto Rico's imports. In fiscal year 2014, Puerto Rico experienced a positive merchandise trade balance of approximately $20 billion.

61. Since 2006, Puerto Rico has been in an economic recession. The Economic Activity Index, a measure of the economic activity of Puerto Rico developed by the Government Development Bank for Puerto Rico,[8] registered a 0.5 per cent year-over-year reduction in September 2016 compared with September 2015. In November 2016, the Bank reported that the number of persons employed in Puerto Rico as at October 2016 was 973,600, representing a decrease of 1.4 per cent compared with October 2015. The unemployment rate averaged 13.0 per cent in 2015.

62. In February 2015, Standard & Poor's Ratings Services lowered Puerto Rico's general obligation debt by three notches, to B from BB, citing a judge's decision to void the plan for debt restructuring and Puerto Rico's potential inability to pay its debts. In a press release dated 12 February 2015, the President of the Bank expressed her disappointment with the decision, which also entailed downgrading of outstanding bonds of the Bank and other entities, including the Puerto Rico Sales Tax Financing Corporation and the Puerto Rico Municipal Finance Agency.

63. In February 2015, a United States federal judge declared the Puerto Rico Public Corporation Debt Enforcement and Recovery Act (enacted in June 2014) unconstitutional.

64. In February 2015, Puerto Rico's Resident Commissioner reintroduced legislation that would empower the Government of Puerto Rico to authorize one or more of its Government-owned corporations, if they were to become insolvent, to restructure their debts under Chapter 9 of the United States Bankruptcy Code. The bill was endorsed by the National Bankruptcy Conference, an organization that advises the United States Congress on proposed changes to federal bankruptcy law. No action has been taken by the United States Congress.

65. The policy of privatization of public enterprises or their components as an economic development measure has met with discontent. Despite broad protests against a proposal to privatize the administration of Puerto Rico's Luis Muñoz Marin International Airport, the Federal Aviation Administration approved the contract with Aerostar Airport Holdings.

66. As an austerity measure aimed at reducing Puerto Rico's then $3.2 billion budget deficit and addressing the issue of high public sector employment, more than 20,000 workers have been laid off since 2009.

67. The agricultural sector remains small but has recently experienced an upturn with the development of agricultural microenterprises and other forms of non-traditional organization of agricultural production. According to the Government Development Bank for Puerto Rico, agricultural production represents less than 1 per cent of Puerto Rico's GDP and agricultural employment in Puerto Rico accounted for 1.7 per cent of total employment in fiscal year 2015.

[8] Government Development Bank for Puerto Rico, "Economic Activity Index", November 2015.

68. According to the Financial Information and Operating Data Report of the Government Development Bank for Puerto Rico, published on 6 November 2015, the Governor of Puerto Rico announced on 29 June 2015 that the Commonwealth's debt load, which is at $73 billion, was unpayable and called for a renegotiation of the Commonwealth's debt load with the goal of achieving sustainable payment terms. The Governor also issued an executive order creating the Puerto Rico Fiscal and Economic Recovery Working Group to consider the measures necessary to address the economic and fiscal crisis of the Commonwealth of Puerto Rico. The Group was tasked with the responsibility of developing and recommending to the Governor the Puerto Rico Fiscal and Economic Growth Plan. On 9 September 2015, the Working Group presented a draft of the Plan to the Governor. An updated version was presented on 18 January 2016. According to a press release by the Government Development Bank for Puerto Rico, the updated version reflects updated projections for fiscal years 2016 to 2020 to account for year-to-date actual results and, in response to creditor requests for additional information, to extend the projection from fiscal year 2020 to fiscal year 2025. In Washington, D.C., discussion of a bailout package for Puerto Rico has included the proposal that a bailout be accompanied by the establishment of a Federal Fiscal Control (or Fiscal Supervision) Board for Puerto Rico.

D. Regional developments

69. In the Declaration adopted at the Fourth Summit of the Community of Latin American and Caribbean States, held in Quito on 27 January 2016, Heads of State and Government highlighted the Latin American and Caribbean character of Puerto Rico and, in noting the resolutions on Puerto Rico adopted by the Special Committee, reiterated that the issue was of interest to the Community of Latin American and Caribbean States. Member countries of the Community committed themselves to continue working, in the framework of international law, particularly in the framework of General Assembly resolution 1514 (XV), to make the region of Latin America and the Caribbean a territory free of colonialism and colonies. They entrusted the Community Quartet, together with other member States that wished to join the mandate, to submit proposals for moving forward on the matter.

70. The Final Declaration adopted by the Heads of State and Government of the Bolivarian Alternative for the Peoples of Our Americas (ALBA), who met in Havana on 14 December 2014, ratified Puerto Rico's Latin American and Caribbean nature and reiterated that its full independence and decolonization constituted a matter of great interest to the member countries of ALBA.

IV. Previous action taken by the United Nations

A. General

71. Since 1953, the United States has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on resolution 748 (VIII), by which the General Assembly released the United States from its obligations under Chapter XI of the Charter of the United

Nations. It has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore beyond the purview of United Nations consideration. The Puerto Rican forces in favour of decolonization and independence have contested this affirmation. In paragraph 9 of resolution 748 (VIII), the Assembly expressed its assurance that due regard would be paid in the eventuality that either of the parties to the mutually agreed association might desire any change in the terms of that association.

72. Information on action taken by United Nations bodies with regard to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur (A/AC.109/L.976) and subsequent reports.

B. Action taken by the Special Committee

73. At its 1st meeting, on 25 February 2016, by adopting the suggestions relating to the organization of work put forward by the Chair (see A/AC.109/2016/L.2), the Special Committee decided to take up the item entitled "Special Committee decision of 22 June 2015 concerning Puerto Rico" and to consider it at plenary meetings.

74. At the 3rd and 6th meetings, on 13 and 20 June 2016, the Chair of the Special Committee drew attention to a number of communications received from organizations requesting to be heard by the Committee on the subject of Puerto Rico. The Special Committee agreed to accede to those requests and heard a number of representatives of the organizations concerned at its 6th and 7th meetings, both held on 20 June (see A/AC.109/2016/SR.6 and 7). At the 6th meeting, the Chair drew attention to a report prepared by the Rapporteur of the Special Committee (A/AC.109/2016/L.13). The majority of petitioners addressing the Special Committee at its 6th and 7th meetings called attention to the imminent enactment by the United States Congress of PROMESA, which would mandate the creation of a Financial Oversight and Management Board in Puerto Rico for the purpose of, inter alia, ensuring that Puerto Rico would have a balanced budget. The Board has been established.

75. At the 7th meeting, the representative of Cuba, on behalf of Bolivia (Plurinational State of), Cuba, Ecuador, Nicaragua, the Russian Federation, the Syrian Arab Republic and Venezuela (Bolivarian Republic of), introduced draft resolution A/AC.109/2016/L.6.

76. At the 6th meeting, the representative of the Islamic Republic of Iran made a statement on behalf of the Movement of Non-Aligned Countries. At the 7th meeting, statements were made by the representatives of Bolivarian Republic of Venezuela, Ecuador, Nicaragua, the Plurinational State of Bolivia and the Syrian Arab Republic and by the observer for the Dominican Republic (on behalf of the Community of Latin American and Caribbean States) (see A/AC.109/2016/SR.7). At the same meeting, the Special Committee adopted draft resolution A/AC.109/2016/L.6 without a vote. Following the adoption of the draft resolution, the representative of Cuba made a statement.

C. Action taken by the General Assembly

77. During the seventy-first session of the General Assembly, no draft resolution on this issue was submitted to the Assembly for action.